

**BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI**

In the Matter of a Proposed Denial	)	Case No.	AX-2003-0574
of Service Commission Rule	)		
4 CSR 240-13.015 and 4 CSR 240-13.035	)		

**COMMENTS OF KANSAS CITY POWER & LIGHT COMPANY**

COMES NOW Kansas City Power & Light Co. ("KCPL" or "Company"), and pursuant to the *Notice to Submit Comments* published December 1, 2003, in the Missouri Register, files its comments on the issue of proposed amendments to Commission Rule 4 CSR 240-13.015, *Definitions*, and 4 CSR 240-13.035, *Denial of Service*.

1. Communications regarding this matter should be addressed to:

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## **DISCUSSION**

2. KCPL appreciates the opportunity to formally provide comments relating to the proposed amendments to 4 CSR 240-13.015 *Definitions*, and proposed rule 4 CSR 240-13.035, *Denial of Service*. In many years of dealing with denial of service with our customers, conflicts regarding this issue have been minimal.

3. From KCPL's perspective, the Staff has not set forth a compelling need for a rule regarding denial of service. The scope and magnitude of inquiries and complaints concerning denial of service do not warrant the extraordinary response of the proposed rule. In 2002, KCPL received approximately 235 inquiries from the Commission Staff in total. Of those 235, our records indicate 46 were in reference to "denial of service" for any reason or a transferred balance. None of these inquiries were brought up as formal complaints. KCPL believes it has fairly and uniformly interpreted the current rules and has a very good understanding of the operational aspects. We believe the proposed rule is unnecessary.

4. On October 28, 2002, KCPL attended the Commission's Denial of Service Issue and Possible Rulemaking Roundtable Discussion. In March 2003, and again in September 2003, KCPL supplied informal comments to the Staff. Each time, KCPL raised issues and concerns regarding the proposed rule. The rule as published is nearly identical to the proposal KCPL reviewed earlier this year. Little has been changed, and no feedback was received from the Staff regarding the concerns previously raised. Consequently, many of KCPL's concerns and issues are identical to those raised previously.

5. The proposed rule also conflicts with certain tariffs KCPL has on file with the Commission regarding definitions of Customer and Prior Indebtedness. They are:

P.S.C. Mo. No. 4 Third Revised Sheet No. 1.05.

1.04 CUSTOMER - *Any person* applying for, *receiving, using,* or agreeing to take a class of electric service supplied by the Company under one rate schedule at a single point of delivery at and for use within the premises either (a) *occupied by such persons*, or (b) as may, with the consent of the Company, be designated in the service application or by other means acceptable to the Company.

P.S.C. Mo. No. 2 Third Revised Sheet No. 1.11

3.04 PRIOR INDEBTEDNESS OF CUSTOMER: If, at the time of application, a Customer *or any member the Customer's household* is indebted to the Company for that same class of electric service previously supplied at the same or any other premises, and if the Customer received substantial use and benefit of the previous electric service, the Company shall not be required to commence supplying electric service to the Customer, or if commenced the Company may terminate such service until payment of the indebtedness has been made.

[Italicized for emphasis.]

6. KCPL is concerned with the procedure being used to modify how KCPL and other utilities address denial of service. Section 393.140(5) RSMo controls the ability of the Commission to determine that an existing tariff, rule or regulation is unjust or unreasonable. Such a determination can be made only after a hearing held upon the Commission's own motion or upon complaint. KCPL has a tariff in effect regarding denial of service. The promulgation of a new rule with provisions in conflict with existing tariffs appears to ignore the clear requirements of § 393.140(5). In KCPL's view, avoiding the requirements of § 393.140(5) and promulgating a new rule that attempts to "trump" the existing tariffs would raise questions and invite challenges regarding the validity of the new rule.

7. Should promulgation of the new rule require a change in KCPL's existing tariffs; a change to comply with our interpretation of the proposed rules would greatly restrict KCPL's ability to collect indebtedness of our customers. The applicant could fraudulently become any member of the household that did not have a prior electric service account in his or her name. Roommates are a good example.

8. As proposed, KCPL may be precluded from transferring and collecting unpaid bills from customers who have received substantial benefit and use of service and failed to pay for it. These uncollectibles will ultimately be borne by the remaining KCPL customers.

9. In the alternative, KCPL submits our comments and a Mark-Up (EXHIBIT I) to Staff's Draft Proposed Rule. Many of the comments must be incorporated in their entirety, especially the definition of Applicant and the utility's burden.

10. In section 1 of the proposed rule, KCPL proposes changes to mirror provisions governing the discontinuation of service found at 4 CSR 240-13.050. We believe that the rules governing the denial of new service should be consistent with the rules governing the discontinuation of existing service. Second, KCPL proposes that "inside the state of Missouri" should be deleted from subsection 1(A). KCPL, like many other Missouri utilities, serves customers in multiple jurisdictions. Customers should not be permitted to avoid the consequences of their delinquent bills by simply moving across state lines to other jurisdictions. Third, we suggest striking the phrase "if the utility believes that health or safety is at risk", from 1(C). Many times KCPL must gain access to our equipment for inspection purposes and to record the meter reading. These instances may or may not be related to health and safety. Without a starting

meter read, we can't properly bill the customer, and therefore must refuse service until we are given access to our equipment. In the same section, we also suggest the addition of a door tag option for providing notice in cases of inaccessible equipment. KCPL's final suggested change to section 1 is to add a section between the published 1(B) and 1(C) that would permit the utility to withhold service from a premise due to the failure of the landlord to pay a delinquent bill for that premise, and reduce the opportunity for customers to name switch. We believe that it is unreasonable to permit a landlord with a delinquent bill to benefit by leasing the premise where the delinquency was incurred. It is also unreasonable to allow customers to merely place the account in some other household member's name to avoid payment of past due amounts.

11. Section 2 defines conditions under which the utility may not refuse to commence service to an applicant. KCPL suggests section (2)(B) be modified to cover instances where the applicant is a guarantor of another customer who has failed to pay a bill. Guarantors are equally responsible for bills and should be required to pay past debt before being granted service. KCPL also objects to the phrase "have the burden of proof", and instead believes language requiring utilities to show that the applicant received substantial benefit by providing evidence as described is appropriate.

12. In section 3, we propose the rule should require the utility to commence service as soon as is reasonably possible. Second, the window of time for the utility to commence service should be extended from three business days following the date specified by the applicant to five business days following the future date specified by the applicant. The rule should recognize that in some circumstances, additional time may be required due to unusual circumstances. Third, the time limitation set forth in the rule

should apply only to premises with existing service. New premises, which require service line construction and meter installation, may take longer and the 5 day window should only start after all inspections required as a precondition of service have been received.

13. In section 4, we recommend the deletion of the word “temporary.” It is possible that a utility may permanently refuse service for health and safety reasons.

14. Finally, KCPL recommends that the definition of “Applicant” be changed to provide clarity. Note that the definition proposed here is substantially different from the definition as published in the *Proposed Amendment 4 CSR 240-13.015 Definitions*. The definition proposed here by KCPL reflects the definition of “Customer” as found in 4 CSR 240-13.015 (1)(D). KCPL believes there should be no difference between “Applicant” and “Customer”.

15. Regarding the Fiscal Note for this rule published in the Missouri Register, KCPL finds the second assumption, “Staff estimated the aggregated private entity cost per utility to be \$42,000 the first year and \$32,000 in succeeding years” to be misleading. This is not a realistic indication of the fiscal impact for gas and electric utilities. The fifteenth assumption states “The rule will have limited effect, if any, on water companies.” It appears that the estimates of \$42,000 and \$32,000 were calculated by dividing the total cost estimates reported by a small number of utilities by the total number of utilities, regardless of whether they provided a cost estimate or not. Section III, WORKSHEET (2) of the fiscal note states “Nine of the seventy-seven publicly held corporations affected by the proposed rule responded to the request with numbers reflecting their estimated cost.”

16. In fact, the aggregate cost estimated by electric utilities for the cost of compliance was \$1,814,400 for the first year, and \$800,000 for subsequent years. Gas utilities provided similar estimates of \$1,393,200 for the first year and \$600,000 for subsequent years. Dividing the responses of nine utilities by the total number of impacted utilities (seventy-seven) produces a resulting cost per utility that is downright disingenuous.

17. In its September 2003 informal comments, KCPL provided the following estimates based on a review and interpretation of the proposed rules as submitted:

Section 1(A)

The proposed Rule on Denial of Service will preclude KCPL from collecting unpaid bills as a condition of commencing service, from customers who have received substantial use and benefit of electric service within the KCPL service territory, but outside of Missouri. KCPL provides electric service in both Missouri and Kansas. The service territories are contiguous and the numbers of residential customers are nearly equal. Customers often move from state to state.

KCPL estimates the financial impact of limiting our ability to collect unpaid bills on Kansas Customers moving to Missouri at \$184,000 annually. This estimate is based upon the transfers of debt from former customers residing in the State of Kansas that applied for electric service in the State of Missouri. Obviously, this dollar amount could increase substantially as customers realize the game they could play with such a rule.

The best that KCPL could anticipate receiving by turning unpaid bills over to a collection agency would be 65% of the total amount. Typical collection fee charges are approximately 35%. Based on the estimated \$184,000, and using a collection fee of 35%, KCPL could anticipate receiving no more than \$119,600.

Section 1(C)

The section requires new notice procedures that currently do not exist at the Company.

When KCPL is unable to obtain necessary access, the Company attempts to call the customer and notify them of the reason the Company was unable to provide service. These calls are made on a best efforts basis. To impose a rule which requires two calls to be made and to maintain auditable records of these calls will place an additional cost on the Company. KCPL estimates that this will cost an

additional \$20,000 annually to comply with this requirement. As an alternative, KCPL suggests that a provision be added to allow the use of door hangers as an acceptable means of notification.

#### Section 2(B)

The proposal would significantly alter KCPL's current practices as defined by KCPL's tariff approved by this Commission. The current tariff states:

P.S.C. Mo. No. 2 Third Revised Sheet No. 1.11

3.04 PRIOR INDEBTEDNESS OF CUSTOMER: If, at the time of application, a Customer *or any member of the Customer's household* is indebted to the Company for that same class of electric service previously supplied at the same or any other premises, and if the Customer received substantial use and benefit of the previous electric service, the Company shall not be required to commence supplying electric service to the Customer, or if commenced the Company may terminate such service until payment of the indebtedness has been made. (Italicized for emphasis.)

An "applicant" according to the proposed definition is the individual who has applied to receive service from the utility. According to the proposed rule, the Company may be required to "commence" service to an applicant when other members of the same household have prior debt. This is an opportunity for customers to "name switch". All the customers would need to do is constantly change the name of the "applicant" to someone else in the household.

The rule is silent regarding the transfer of prior debt of household members to the account. Transferring prior debt would place the amount due in the standard collection stream, and failure to pay would ultimately result in disconnection. Without clarification of these issues, an accurate estimate of the financial impact to the Company is not possible.

If the intent of the rule is to restrict the transfer of prior debt, KCPL estimates that Section 2(B) of the draft rule will increase the cost to KCPL of providing service to Missouri customers by \$2,000,000.

However, if the rule only precluded the utility from not refusing to commence service, but allows the utility to post any balance from *any other member of the household's* prior indebtedness as defined in KCPL's tariff noted above and ultimately disconnect if payment is not made, then the estimated cost would be reduced greatly. KCP&L estimates that the cost of compliance under this interpretation would be \$200,000.

KCPL suggests the definition of "customer" and "applicant" should be synonymous, and should mirror the language found in KCPL's tariff referenced in numbered paragraph 5 above. Additionally, KCPL believes the rule should be amended to include a statement that would prevent name switching by members of the same household. KCPL offers Section (1)(C) of EXHIBIT I, "KCPL



Comments/Mark-Up to Proposed Rule” for this purpose. Adoption of these two suggestions reduces KCPL’s estimated annual cost of compliance from \$2,000,000 to \$200,000.

### Section 3

This section requires the utility to commence service no later than 3 business days following the day specified by the customer. This section also needs clarification. KCPL hopes that the intent of this 3-business day timeframe refers to service that is already permanently installed and ready for the utility to establish credit requirements with the customer, read the meter and begin service. If this is not the case, then this section will be impossible to comply with if new construction is required. Providing an estimate of the cost to comply with this provision of the rule as written is nearly impossible but could run into the millions of dollars to comply.

18. The overall estimated cost for KCPL to comply with this rule is estimated to be over \$2.1 million annually. However, this does not include any cost associated with the requirement for the utility to commence service no later than 3 business days following the day specified by the customer.

### **SUMMARY**

WHEREFORE, Kansas City Power & Light Company respectfully requests that the Commission consider its comments, and thanks the Commission for the opportunity to present its views.

Respectfully Submitted,

/s/ Michael A. Rump

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was sent via U.S. Mail, postage prepaid on this 29<sup>th</sup> day of December 2003, to the following:

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/s/ Michael A. Rump

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**EXHIBIT I**  
**KCPL Comments/Mark-Up to Proposed Rule**

**Proposed Rule**

*PURPOSE: This rule prescribes conditions under which utilities may refuse to commence service to an applicant for residential service and establishes procedures to be followed by utilities to insure reasonable and uniform standards exist for the denial of service. This rule also protects an applicant(s) at the time of their application, from being required to pay for the bill incurred by other individuals for service from which the applicant(s) did not receive substantial benefit.*

(1) A utility may refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay an undisputed delinquent utility charge for services provided by that utility ~~within the state of Missouri~~;

(B) Failure to post a required deposit or guarantee in accordance with 4 CSR 240-13.030;

**(C) Failure of a previous owner or occupant of the premises to pay a delinquent utility charge where the previous owner or occupant remains an occupant or user;**

~~(C)(D)~~ Refusal to permit inspection, maintenance, replacement or meter reading of utility equipment ~~if the utility believes that health or safety is at risk~~. A utility shall provide notice to the applicant regarding its need for inspection, maintenance, replacement or meter reading of utility equipment and shall maintain an accurate record of the notice provided.

1. The notice shall include one (1) of the following:

A. Written notice by first class mail sent to the applicant; or

B. Written notice delivered in hand to the applicant; or

C. At least two (2) telephone call attempts reasonably calculated to reach the applicant.

**D. Written notice in the form of a door hanger left at the premise.**

2. The notice shall contain the following information:

A. The name and address of the applicant and the address where service is being requested;

B. How the applicant may comply with the requirements to have service connected;

C. A telephone number the applicant may call from the service location without incurring toll charges and the address of the utility prominently displayed where the applicant may make an inquiry;

D. A statement in Spanish either:

(I) Advising the applicant that if they do not read English, to ask someone who does to translate the notice for them; or

(II) Advising the applicant to call the utility for assistance if the utility provides telephone assistance in Spanish;

E. If the applicant is unable to resolve the matter satisfactorily with the utility, they may contact the Public Service Commission;

~~(D)~~(E) Misrepresentation of identity;

~~(E)~~(F) Violation of any other rules of the utility approved by the commission which adversely affects the safety of the customer or other persons or the integrity of the utility's system; or

~~(F)~~(G) As provided by state or federal law.

(2) A utility may not refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay for merchandise, appliances or services not subject to commission jurisdiction as an integral part of the utility service provided by a utility;

(B) Failure to pay the bill of another customer, unless the applicant who is seeking service received substantial benefit and use of the service to that customer **or applicant is a guarantor of another customer who has failed to pay a bill**. In this instance, the utility refusing to commence service, shall ~~have the burden of proof to~~ show that the applicant received substantial benefit and use of the service. To meet that burden the utility ~~must have reliable~~ **may show** evidence that:

1. The applicant and that customer resided together at the premises where the bill was incurred and during the period the bill was incurred; and

2. The bill was incurred within the last five (5) years; and

3. The utility has attempted to collect the unpaid bill from the customer of record; and

4. At the time of the request for service, the bill remains unpaid and not in dispute.

(3) The utility shall commence service in accordance with this rule as soon as **reasonably** possible on the day specified by the customer for service to commence, but no later than, ~~three (3)~~ **five (5)** business days following the day specified by the customer for service to commence, **when the service already exists. When a new service is required, the utility shall commence service in accordance with this rule as soon as reasonably possible on the day specified by the customer for service to commence, but no later than five (5) business days following the day all inspections have been made.**

(4) Notwithstanding any other provision of this rule, a utility may refuse to commence service ~~temporarily~~ **indefinitely** for reasons of maintenance, health, safety or a state of emergency.

(5) Any provision of this rule may be waived or varied by the commission for good cause.

**AUTHORITY: Sections 386.250(6), 393.140(11), RSMo 2000 and 393.130(1), RSMo Supp. 2003. Original rule filed Nov. 3, 2003.**

## KCPL Comments/Mark-Up to Proposed Amendments

1. KCPL believes for purposes of this rule there is should be no difference between “customer” and “applicant”, and suggests the following change.

*“Applicant shall have meaning of Customer as defined in 4 CSR 240-13.015(1)(E). ~~means an individual(s) that has applied to receive service from the utility. (The word individual shall include but not be limited to persons, corporations, partnerships, political subdivisions, etc.)”~~*

## Proposed Rule as Published

### 4 CSR 240-13.035 Denial of Service

*PURPOSE: This rule prescribes conditions under which utilities may refuse to commence service to an applicant for residential service and establishes procedures to be followed by utilities to insure reasonable and uniform standards exist for the denial of service. This rule also protects an applicant(s) at the time of their application, from being required to pay for the bill incurred by other individuals for service from which the applicant(s) did not receive substantial benefit.*

(1) A utility may refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay an undisputed delinquent utility charge for services provided by that utility within the state of Missouri;

(B) Failure to post a required deposit or guarantee in accordance with 4 CSR 240-13.030;

(C) Refusal to permit inspection, maintenance, replacement or meter reading of utility equipment if the utility believes that health or safety is at risk. A utility shall provide notice to the applicant regarding its need for inspection, maintenance, replacement or meter reading of utility equipment and shall maintain an accurate record of the notice provided.

3. The notice shall include one (1) of the following:

A. Written notice by first class mail sent to the applicant; or

B. Written notice delivered in hand to the applicant; or

C. At least two (2) telephone call attempts reasonably calculated to reach the applicant.

4. The notice shall contain the following information:

A. The name and address of the applicant and the address where service is being requested;

B. How the applicant may comply with the requirements to have service connected;

C. A telephone number the applicant may call from the service location without incurring toll charges and the address of the utility prominently displayed where the applicant may make an inquiry;

D. A statement in Spanish either:

(I) Advising the applicant that if they do not read English, to ask someone who does to translate the notice for them; or

(II) Advising the applicant to call the utility for assistance if the utility provides telephone assistance in Spanish;

E. If the applicant is unable to resolve the matter satisfactorily with the utility, they may contact the Public Service Commission;

(D) Misrepresentation of identity;

(E) Violation of any other rules of the utility approved by the commission which adversely affects the safety of the customer or other persons or the integrity of the utility's system; or

(F) As provided by state or federal law.

(2) A utility may not refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay for merchandise, appliances or services not subject to commission jurisdiction as an integral part of the utility service provided by a utility;

(B) Failure to pay the bill of another customer, unless the applicant who is seeking service received substantial benefit and use of the service to that customer. In this instance, the utility refusing to commence service, shall have the burden of proof to show that the applicant received substantial benefit and use of the service. To meet that burden the utility must have reliable evidence that:

1. The applicant and that customer resided together at the premises where the bill was incurred and during the period the bill was incurred; and

2. The bill was incurred within the last five (5) years; and

3. The utility has attempted to collect the unpaid bill from the customer of record; and

4. At the time of the request for service, the bill remains unpaid and not in dispute.

(3) The utility shall commence service in accordance with this rule as soon as possible on the day specified by the customer for service to commence, but no later than, three (3) business days following the day specified by the customer for service to commence.

(4) Notwithstanding any other provision of this rule, a utility may refuse to commence service temporarily for reasons of maintenance, health, safety or a state of emergency.

(5) Any provision of this rule may be waived or varied by the commission for good cause.

**AUTHORITY: Sections 386.250(6), 393.140(11), RSMo 2000 and 393.130(1), RSMo Supp. 2003. Original rule filed Nov. 3, 2003.**

## **Proposed Amendment as Published**

**4 CSR 240-13.015 Definitions.** The commission is amending section (1).

*PURPOSE: This amendment adds definitions for terms that are used in this chapter specifically for “applicant” and “denial of service.”*

(1) The following definitions shall apply to this chapter:

**(A) Applicant means an individual(s) who has applied to receive residential service from the utility;**

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**(I) Denial of service means the utility’s refusal to commence service upon an applicant’s request for service at a particular location;**